

SOLICITORS' APPRENTICES (IRELAND)
(COMMISSIONERS' REPORT).

RETURN to an Order of the Honourable The House of Commons,
dated 10 May 1892;—for,

COPIES "of the REPORTS of the COMMISSIONERS appointed by the TREASURY
to Inquire into and Report upon the Matter at issue between the IRISH
BENCHERS and the INCORPORATED LAW SOCIETY OF IRELAND regarding
the Allocation of Part of the Stamp Duty on Indentures of Solicitors'
Apprentices in *Ireland*."

Treasury Chambers,
14 May 1892.

JOHN E. GORST.

(*Mr. Sexton.*)

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COPIES of the REPORTS of the COMMISSIONERS appointed by the TREASURY to Inquire into and Report upon the Matter at issue between the IRISH BENCHERS and the INCORPORATED LAW SOCIETY OF IRELAND regarding the Allocation of Part of the Stamp Duty on Indentures of Solicitors' Apprentices in *Ireland*.

I.—REPORT of the Majority of the Committee appointed by the Lords Commissioners of Her Majesty's Treasury to inquire into certain Questions mentioned in the Treasury Letters of the 11th November 1891, addressed to the Treasurer of the Society of Kings' Inn, and to the Secretary of the Incorporated Law Society of Ireland.

THE Committee having met at the buildings of the King's Inns on the 16th November 1891, and Mr. Latham having been appointed chairman, application was made to hear counsel on behalf of the Incorporated Law Society. No such application was made on behalf of the Society of King's Inns; but the Committee were informed by Mr. Justice Holmes, one of their members, that the matter had been under the consideration of the benchers, and he read from the society's minutes resolutions stating that they would not at present instruct counsel, and giving reasons for this course.

The Committee, having decided to hear counsel for the Incorporated Law Society, were addressed by Mr. Roche, q.c., on their behalf.

At the end of his address he requested that facilities should be given to his clients for the inspection of books and documents under the control of the benchers.

By direction of Mr. Justice Holmes, the representatives of the Law Society were thereupon accorded full opportunity for such inspection, of which they availed themselves; and the further hearing of the matter was adjourned.

The Committee meanwhile applied themselves to a perusal of the statutes and other documents affecting the questions under inquiry, and prepared a Memorandum, which was handed to counsel for the Law Society, who took time to consider it. A copy of the Memorandum is annexed to this Report.

Mr. Fitzgerald, q.c., on behalf of the Law Society, then addressed the Committee on the subject-matter of the Memorandum, as well as on the question at large.

The Society of King's Inn did not appear before the Committee by counsel or otherwise.

The Committee further considered the questions referred to them; and a majority thereof, consisting of Mr. Latham and Mr. Justice Holmes, report as follows on the several heads of reference.

1. The statutory title of the Society of King's Inns to the payment of 14 *l.* out of the Stamp Duty on the indentures of solicitors' apprentices is complete.

It was not contested by the Law Society. The first grant of this duty, which was over and above the duty previously charged and was distinguished as a "further duty" to the amount of 7 *l.*, was made by an Act of 1790. It was afterwards by an Act of 1791 increased to 14 *l.*, and it was repeated by annual Acts until the Act of 1803, by which the Irish Stamp Duties were for the first time granted for an unlimited period.

By that Act (43 George III. cap. 21) a duty of 20 *l.* was imposed upon the admission of any student and barrister into the Society of King's Inns, and a

duty of 5 *l.*, and a further duty of 7 *l.* upon each part of the indentures binding an apprentice to an attorney; and by Section 89 it was provided that a distinct account should be kept of half of the said duty of 20 *l.* and of the whole of the said further duty of 7 *l.*, and the same were to be paid by the Lord High Treasurer, or the Commissioners of His Majesty's Treasury, to the treasurer of the said society, to be applied by him in such manner as should be directed by the said society. The amount of duty payable in respect of the indentures of an attorney's apprentice was afterwards greatly increased; and in the Schedules to the several Stamp Acts, beginning with 47 George III. c. 50, the distinction between the duty and further duty was dropped, the entire sum payable being stated as a single item. All these statutes contain a provision to the effect that the sum of 14 *l.*, part of the duty, shall be carried to a separate account and paid over by the Receiver General of Inland Revenue to the King's Inns Society. There has thus been a continuous enjoyment of the grant by the society for the period of more than a hundred years.

2 (a). At the date of the original grant and until the passing of the Attorneys and Solicitors Act (Ireland) 1866, attorneys and solicitors were members of the Society of King's Inns. From the existing records of the society, beginning in the year 1607, it appears that there were always attorneys and solicitors members of the society.

During the 17th, and perhaps the early part of the 18th century, there were practising solicitors and attorneys who were not members; but by reason of the judges (who were always benchers and had also complete control over the admission of attorneys and solicitors to practice) beginning about this period to insist that they would only admit them as practitioners upon condition that they should become members of the Society of King's Inns, they were thenceforth obliged to obtain admission to that body. From an earlier period therefore than 1790, down to 1866, there is probably no instance to be found of an attorney or solicitor who was not a member. Their number in the society amounted generally to about half the entire body or more.

(b.) As such members attorneys and solicitors had the same rights in the property of the society as other members.

With the exception of a brief interval in 1792 and 1793, the society has been from the earliest time to which we can trace it a voluntary and unincorporated society, and its property has been the property of the members for the time being, unaffected by trusts capable of being enforced in any court. The exceptional interval emphasises this position. In 1792 a Royal Charter of incorporation was granted to the society, under which no doubt it would have been placed on an entirely different footing, and would have become a kind of legal university, with duties and obligations affecting its property, and this Charter was in the same year confirmed by Act of Parliament.

But in the following year, in deference to the protest of what was probably a large majority of the members of the society, the Charter was surrendered, and the confirming statute was repealed by another Act, in which it was expressly provided that the society should thenceforth remain, continue, and be as if the Charter had never been granted; and so it has continued from that day to this.

(c.) The question of liability to provide for the legal education of solicitors' apprentices is, to some extent, dealt with in the Memorandum of the Committee, above referred to. On behalf of the Law Society, counsel disclaimed the suggestion of legal or equitable liability, pointing out that if any liability of that nature existed, it could and would have been enforced by the courts. The claim of the Law Society was presented solely as a moral claim.

It will be convenient to deal more fully with the suggested liability of the Society of King's Inns, as arising out of this moral claim under the fourth head of reference, which raises the question of equitable right; but under the present head we have to state our opinion that the society was never under any liability, in any sense of the word, to provide for the legal education of attorneys' or solicitors' apprentices.

We are satisfied that legal instruction in any form was not included amongst the objects for which the Society of King's Inns was established. On the contrary, it seems to have been somewhat carefully excluded. Our attention was called

called to some letters written by the King's Serjeant in Ireland, the Irish Judges and law officers, and the Irish Privy Council respectively, before the making of the lease by Henry VIII. to the founders of the society, and these documents are set forth in the shorthand writer's notes.

There is not, in our opinion, much information to be gained from them; but there is certainly nothing in them to suggest that it was ever contemplated to establish in Ireland a school of law at all resembling the English inns of court, then in the height of their educational activity. There is, at all events, no ambiguity about the views of the King and his Parliament.

In the same year in which the lease was granted for the use of the society, a statute was passed prohibiting any person from pleading in the Irish courts who had not studied for an unspecified number of years in one of the English inns of court; and when the lease was renewed by Elizabeth, this Act, which was at first temporary, was made perpetual. The interpretation placed on this provision for more than 150 years after its enactment was that there were required at least five years of English study, being the full period then needed as the qualification to practise as a barrister in England, and leaving no room nor occasion for further instruction in Ireland. It was James I. who granted in perpetuity for the use of the King's Inns the lands previously leased; and one of the first acts of Chichester, the deputy appointed by this monarch to carry out his Irish policy, was to restore the society, which had been in abeyance for some time before.

The rules forming the basis of this restoration, as they were originally written, are still to be seen; and there is not a word in them that suggests, even in the most remote degree, that the society was to afford means or opportunity for education or legal instruction. No trace of such an idea is to be found either in the records of the society or in the history of the country down to 1792. Even under the short-lived Charter of this year, while an elaborate system of study was laid down for barristers and students preparing for the bar, no educational provision was made for attorneys and solicitors' apprentices, who were never admitted, and whom it was never contemplated to admit as members of the society. The training and test required, before they could be permitted to practise, were regulated by statute, and consisted in service for five years under a competent attorney, attendance in the courts for two terms a year for three years before admission, and an examination by certain specified examiners.

(d.) From 1860 to 1866 the Society of King's Inns did, in fact, make some provision for the legal education of attorneys and solicitors' apprentices. We find no evidence to show that it made any such provision at any other time; and even during this period the expenses were defrayed, not out of the general funds of the society, but by means of special fees paid by the apprentices who received the instruction.

3. We find no evidence to show that the grant to the Society of King's Inns of a portion of the stamp duty was made in consideration of either of the matters suggested. There may be speculations in favour of either theory, but nothing has come to our knowledge which can be reasonably or fairly called evidence. The grant began in 1790. About that time the Four Courts were being built upon a portion of the property of the society that had been taken possession of by the Crown; and the benchers were claiming compensation. About that time also there was a movement on the part of some members of the society, in the direction of legal education, as appears by the Charter and the Benchers' minutes. But, so far as we have been able to discover, there was no connection between the grant and either the claim for compensation or any intention that the society should provide for the legal education of attorneys and solicitors' apprentices, or any other form of legal instruction. The contemporaneous circumstances are inconsistent with both views. On the one hand the claim for compensation was first made, or at least repeatedly pressed after the grant had been for some time in existence, and apparently without any reference to it. On the other hand, the grant seems to have originated before either the Charter or a scheme of education was contemplated by the society, and it was continued by annual statutes long after the abandonment of the educational movement. The educational theory, as far as we are aware, has never been advanced except as a mere

matter of speculation. The compensation theory was asserted as a fact by Mr. Lyle, a bencher of King's Inns, when examined before a Parliamentary Committee in 1846, and again by the Standing Committee of the benchers in a report made in 1859. The substance of these statements was that the Society of the King's Inns, in vindication of its right to the ground which had been taken possession of by the Crown for the purpose erecting the Four Courts, brought an ejectment in 1796, in consequence of which an arrangement was made with the Government that a portion of the stamp duties payable by barristers and attorneys' apprentices should be granted to the society in lieu of rent for the land taken, and that this arrangement was carried out in the Stamp Act of the following year. Notwithstanding the precise and positive character of this assertion, we are unable to accept it in face of the fact that the grant contained in the Act of 1797 was only the renewal of what had been given in previous annual statutes, and in the absence of any contemporaneous evidence of the agreement. Mr. Lyle and some of the Standing Committee of 1859 had no doubt become members of the society very shortly after the period mentioned, and it may be assumed that their statement was grounded upon what they had heard in early life. It appears from the records of the benchers that in 1796 notice was given by them to the then Chief Secretary of an intended action of ejectment to recover the site of the Four Courts, whereupon there was a demand by the Government for an account of the stamp duties theretofore received by the society; and the duties then payable seem to have been detained by the Exchequer for some time.

After the interval of a few months the benchers, by resolutions passed at the same meeting, abandoned the ejectment and requested the Lord Chancellor to apply for the part of the duties to which the society was entitled. Some years subsequently the benchers again resolved to press for compensation; and, after having made active preparations for this purpose, the idea was once more dropped somewhat abruptly. One can easily understand that where the recipient of an annual bounty claims an additional sum by way of compensation, he is likely to be reminded that the assertion of his alleged right, whatever else it may lead to, will, at all events, result in the loss of the voluntary grant. Probably some such intimation was given to the benchers, and they deemed it prudent to abide by what they had. This would not unnaturally give rise to the idea amongst members of the society not belonging to its governing body, that the grant was to be given and accepted in satisfaction of the claim; but we are of opinion that if there had been an agreement, or arrangement to this effect, it would have been either carried out by statute, or some definite evidence of it would have been found amongst the records of the Society.

4. It is material to observe that there is nothing in the Attorneys and Solicitors Act (Ireland) 1866, which rendered it necessary that attorneys and solicitors should cease to be members of the King's Inns; and as a matter of fact attorneys and solicitors, who were members before the passing of the Act, are members still. Moreover, if solicitors were now to present themselves for admission to the King's Inns, there is no reason to suppose they would be refused. The judges, however, can no longer require that they should be members, and the practical effect of the Act of 1866 has been, and probably will be, to dissociate their branch of the profession from King's Inns and to attach it to the Incorporated Law Society. The indentured apprentices attend lectures by professors, and undergo examination by examiners who are appointed by the chief judges, and whose salaries are, under the provisions of the Act, paid by the Incorporated Law Society out of the fees received by them from the apprentices. It is under these circumstances that the Law Society put forward a moral claim, not, as we have said, alleging, in the technical sense, a legal or equitable right, but a claim founded on what they suggest is a just result of the events which have occurred. They claim that the share of the duty paid by the apprentices to the Exchequer, which has hitherto been appropriated by successive statutes to the society of King's Inns, should henceforth be transferred from that society to the Incorporated Law Society for the educational benefit of attorneys and solicitors and their apprentices. In considering this claim we note that it involves the deprivation of the King's Inns of a revenue amounting, at the present time, to about 1,000 *l.* a year, which is thus under a clear statutory title exempt from any duty or trust enforceable at law or in equity, and has been theirs on the same footing

footing for about 100 years, and which has not been and is not spent otherwise than on useful and proper objects.

It is undoubtedly competent for the Legislature to withdraw a grant of this description if it thinks it right to do so, but we believe that it has not been the practice of Parliament to exercise this power except on the terms of granting full compensation. Then as to the nature of the claim, it is to be observed that it is not formulated as a claim to a division of the entire property of the King's Inns between the continuing members, the judges and barristers on the one hand; and the outgoing class, the attorneys and solicitors on the other. The answer to such a claim would be that the society is a continuing society; and members voluntarily seceding can point to no rule or practice in this or any similar society which gives them a title to carry off any share of the property of the society with them. There would be still less foundation for such a claim when made, not by individuals who have been members themselves, but by a class composed of persons who no longer seek admission into the society. The Incorporated Law Society accepts this view as to the property generally of the King's Inns, and attacks only this particular fund.

But having regard to the law and history, we are unable to differentiate the share of stamp duty from the rest of the property of the King's Inns.

The Incorporated Law Society has, as we have said, failed, in our opinion, to establish its contention that it was granted to the King's Inns for the purpose of the education of solicitors' apprentices, or, indeed, any other educational purpose. The only connection it has with solicitors' apprentices is that it is paid out of the Stamp Duty charged on their indentures. But if the Stamp Duty were carried into general account, and the grant to King's Inns were made from the Consolidated Fund, or out of moneys provided by Parliament, it would come to the same thing; and we cannot find that the mere source of supplying the grant confers any moral right on the apprentices to have it back from the grantees. In coming to a conclusion adverse to the claim of the Incorporated Law Society, we have put aside the argument that, as it was not advanced at the time of the passing of the Act of 1866, the society is too late in pressing it now. It says it was misled by the erroneous statement of the Benchers that the grant of duty was in lieu of payment for the site of the Four Courts, and this may be so. In any case, if the claim were a just one, we think it ought not to be barred merely by reason of any oversight or neglect on the part of the society in 1866. Although the question might still remain whether the Legislature would have enabled attorneys and solicitors to separate themselves from it, if this would have had the effect of crippling the resources of the King's Inns by taking away, not only the fees that would have been payable by them as members, but also the grant under the provisions of the Stamp Acts.

There remains the question whether the Incorporated Law Society can make out any case for a contribution out of the Stamp Duty of 80*l.* payable by solicitors' apprentices on their indentures, apart from the sum of 14*l.* paid out of it to the King's Inns. Counsel for the Law Society appeared to regard this as matter for separate and subsequent consideration; but it seemed to the Committee that the terms of the reference were framed intentionally so as to include it, and we think that we ought to deal with it in our report. No such contribution is indeed made to the Incorporated Law Society in England, but the cases are not exactly parallel. The attorneys and solicitors ceased to belong to the English Inns of Court two or three hundred years ago. They are only now ceasing to be members of the King's Inns, and it is in consequence of the action of the Legislature in 1866, that for their branch of the profession the Incorporated Law Society will hereafter be everything, and the King's Inns nothing. The Stamp Duty in Ireland is the same as in England, and higher than the corresponding duty in Scotland. The Law Society under the Act of 1866 is appointed to perform important public functions, and it is not a wealthy society. The professional education of the apprentices is undertaken by the society as required by the Act; and for the payment of their professor as well for meeting the expenses of the disciplinary supervision which it exercises in the interests of the public over one branch of the legal profession, it has only the fees received from the apprentices. In our opinion a grant to the Incorporated Law Society, either out of the Stamp Duty on indentures, or otherwise out of the public revenue, somewhat similar to the existing grant to the King's Inns,

would be a contribution by the State in aid of the technical education of an important public profession, and of the performance of a public duty to which the Incorporated Law Society of Ireland is in a position, under the circumstances, to prefer a reasonable claim.

More than this we are unable to find in its favour.

(signed) *William Latham,
Hugh Holmes.*

Dated, January 1892.

MEMORANDUM.

18 November 1891.

The Committee have considered the matter referred to them since Mr. Roche finished his address, and desire to call attention to the following points.

1. We understand that, as regards the first head of the reference, the Incorporated Law Society do not contest the statutory title of the Society of the King's Inn.

2. In regard to the second head of enquiry, we have been considering the nature of a voluntary and unincorporated society, not being a charity, such as we understand the King's Inns to be. We should wish to know if on behalf of the Law Society any distinction is sought to be drawn between the constitution of the King's Inns and that of the English Inns of Court, which seem to hold that the property is the property of the members for the time being, and that they have uncontrolled authority to admit or to reject persons applying to become members. It is stated that attorneys were formerly admitted to the English Inns of Court, and that in the 16th and 17th centuries they were excluded by orders of the Inns. On these points we have referred to,—

Rex v. Gray's Inn, 1 Douglas, 353;

Rex v. Lincoln's Inn, 4 Barnwell and Cresswell, 855;

Rex v. Bernard Inn, 5 Adolphus and Ellis, 17;

from a note to which last case it appears that the Inns of Court were declining to admit attorneys, at or after the time when the judges had made orders that they should be members of an Inn of Court, or Inn of Chancery.

We have examined the history of the King's Inns from its commencement. We have observed that the effect and probable intention of the Act of 1542 (33 H. VIII., Session 2, c. 3) was to confine the legal education of barristers to England. In the same year the first lease of the King's Inns premises on Inns Quay was made to professors of the law, and from an examination of the fiat we can find no trusts declared. This lease was renewed by Queen Elizabeth, but we have not seen the fiat. In her reign the Statute of 33 H. VIII. was made perpetual. We have seen in the Rolls publications the abstract of the grant in socage by King James I. to Sir James Davis, the then Attorney General, which contains no trusts, and the conveyance from him to certain persons, all apparently lawyers, of the subject matter of the previous grant to be used by them for their Common Hall. We find no reference in this to education, thus differing from the grant by the same king to the Temple, which seems to contain an educational trust or duty (see Appendix to Report of Royal Commission on Legal Education, 1855). We are informed by Mr. Latouche, Keeper of the Records, that the Letters Patent of Charles I. contain no trust.

It is stated in the histories of the English Inns of Court that, in the period of the Tudors and early Stuarts, their system of readers, mootsmen, legal debates and lectures was in full operation.

No trace of this is to be found in the records of the King's Inns. We referred to Yelverton's Act of 1782 (21 & 22 Geo. III. c. 33), and we find no trace in it of legal education. The only obligation on the student was to keep commons in hall, or make a payment to the treasurer. We can find no evidence at this time of any measures for education being adopted or contemplated by the King's Inns. We have searched in the debates of the House

of

of Commons and in the Commons Journals, and cannot find anything to throw light either on this or on the subsequent grants of the appropriated Stamp Duties. The Charter of 1792, and still more, the Rules which were proposed to be made under it (but which were never passed), contemplate a system of education similar to what had existed in former times in the English Inns of Court. We also find that one of the objections to the Charter made in the Bar petition was directed to the introduction of such a system. In 1792 Yelverton's Act was repealed, and it was never afterwards re-enacted. In the Statute of 1793, confirming the revocation of the Charter of 1792, it is provided that the Society of King's Inns should be the same in every respect as if the Charter had never been granted. After this there were yearly grants of the appropriated duties for a considerable time, and eventually they were made perpetual.

The admission of attorneys to practise in the courts always rested with the judges. Certain requirements as a condition precedent to their admission were provided by 7 Geo. II. c. 5, and 13 & 14 Geo. III. c. 23. By the last Act provision was made for their examination before admission by examiners named in the Act, or to be nominated by the judges; and by the last section the discretionary power of the judges to admit is still preserved. We have been able to find no statute in which any duty relating to attorneys is imposed on the Society of King's Inns. In the new rules of 1794 we find no provisions for education. The word "student" (meaning, as it seems, a student for the bar) occurs; and he is admitted as a special member of the Inns. The rules contemplated that barristers and attorneys should be admitted as full members. Attorneys' apprentices are not admitted to membership in any form. The only examination referred to is that under the Statute, which is provided to be held in the King's Inns buildings. The only way in which these rules could be enforced upon attorneys was by co-operation with the judges, who alone had power to admit attorneys.

As a matter of fact, no provision was made by the King's Inns for the education of students for the bar until 1850, being about the time when similar provision was made by the English Inns, or until 1860, for solicitors' apprentices.

Under these circumstances, we shall be glad to hear any argument that may occur to counsel for the Incorporated Society as to the liability of the King's Inns to provide for the legal education of solicitors' apprentices.

3. We have already stated all the information we have been able to obtain on the matters dealt with under the third head of inquiry. The statement made by Mr. Lyle in his evidence before the committee of 1846, and in the report of the standing committee of the benchers of 1859, as to an arrangement between the King's Inns and the Government to the effect that the appropriated stamp duties should be in lieu of rent for the site of the Four Courts, is clearly a mistake, as being inconsistent with contemporaneous facts and with the pressure on the part of the Inns for compensation from the Crown long after the commencement of the appropriated duties. The mistake probably arose from the circumstance that the applications for compensation were not persevered in, as the Crown could in any year have declined to renew the grant of appropriated duties, which at that period were annual, and this was confused by bar tradition into a matter of agreement or arrangement.

We have already referred under Section 2 to Sub-section (b) of Section 3 of the Reference.

4. Having regard to the above observations, we shall be glad to hear argument directed to distinguishing the appropriated duties from any other portion of the Society's property, including their buildings, their library, and the funds they have accumulated. Mr. Roche's argument as to the Incorporated Society's having been misled by the statements made to the effect that the appropriated duties were in lieu of lands, assumes that the duties are in their nature distinguishable from the other property of the Inns. We shall be glad also to hear argument directed to the question of any claim of the Incorporated Law Society as representing the profession of solicitors to any part of the property of the King's Inns, on the assumption of its being a voluntary society whose property belongs to its members for the time being; and we shall be glad to hear of any instance where the future members of a class have separated themselves or been

separated from a voluntary society, and have received any portion of the property. We shall be glad also to hear how this case is to be distinguished from the case where attorneys in England were excluded from the Inns of Court in the 16th and 17th centuries, and from the case where Irish law students were relieved by Statute from the obligation of attending one of the Inns of Court in England.

We would also suggest to counsel whether inasmuch as the Act, 1866, which relieved solicitors from any necessity of becoming members of King's Inns contains no provision as to giving the Incorporated Law Society any share of the property of the King's Inns, it is not now to be assumed that the relief was granted upon the basis that they were to receive no such share.

We are not aware that any claim upon such property was made at the time of the passing of the Act, except in respect of the deposit for chambers, disposed of by the Royal Commission.

Finally, looking to the terms of Section 4 of the reference, which seems to extend to the entirety of the duty paid by solicitors' apprentices, we shall be glad to hear argument addressed to the point whether the Incorporated Society may not have an equitable or reasonable claim to receive some portion of that duty which has not been appropriated to King's Inns.

II.—REPORT of Mr. William Findlater, one of the Committee appointed by the Lords Commissioners of Her Majesty's Treasury, to inquire into certain questions mentioned in the Treasury letter of the 11th of November 1891, addressed to the Society of the King's Inns and to the Secretary of the Incorporated Law Society of Ireland.

I have been favoured with a perusal of the draft report of the other members of the committee, and while concurring with some of the conclusions at which they arrive, and recognising the spirit of moderation with which they express themselves even in those respects in which I find myself unable to agree with them, I regret that I cannot adopt their views, and find myself constrained to make an independent report, which I beg to do as follows:—

1. I agree that the statutory title of the King's Inns to the payment of the 14 l. a year is complete. I beg to point out, however, that this payment was never a payment *taken out of* an existing duty, or money which would otherwise have found its way into the public revenue, but was a new duty levied for the first time in 1790 off the solicitors' apprentices, and was from the very first and always appropriated to the King's Inns by the statute of that year and its successors, and never from its origin to the present day benefited the public revenue of the country to the extent of a penny.

From 1791 to 1803 this sum was levied in the annual Stamp Acts, and described as "a further duty of 7 l. on each of the said indentures," and each of the said Acts contains a special section directing a distinct account to be kept of this "further duty" and its payment to the King's Inns.

In 1803 the Irish Stamp Duties were granted for an unlimited period, and the Stamp Act of this year describes this duty in terms similar to the previous annual Acts as "a further duty," and contains a section (Sec. 89), directing a distinct account to be kept of it, and its payment to the King's Inns. It is true that in the Stamp Act of 1807 (47 Geo. III., c. 50), the word "further duty" is dropped in the schedule, but the distinction between the duty payable to the Crown and the duty payable to the King's Inns is not dropped, as is shown by the following note in the schedule. "Seven pounds of the said duty of 50 l. so imposed on each part of such indentures shall be accounted for and paid to the Society of King's Inns." The distinction is further carefully preserved by Section 7, which directs a distinct account to be kept of the moneys payable to the King's Inns, and their payment to the treasurer of that society.

This same distinction is also observed through all the subsequent Stamp Acts, e.g., the Stamp Act of 1870, which contains a clause (Section 44), the marginal note of which is "*Distinct account to be kept of 14 l. payable to King's Inns, Dublin*," which directs that that sum shall be carried to a separate account, and paid over to the treasurer of the society.

2 and 3. I beg to take the heads of inquiry numbered 2 and 3 together, and report on them, as follows:—

It was admitted on both sides that from 1790, and indeed for a long antecedent period, down to 1866, all solicitors not only were, but were obliged to be members of the society, its rules made by the benchers (several of which are recorded in the Black Book and the Green Book of the society), and imposed by them on the other branch of the profession by virtue of the "full power and authority which they claimed to make and ordain rules and orders for and concerning the business and practice of attorneys, and for their admission into the society." (See the preamble to the rules of 1793, Duhigg, p. 581.)

The solicitors had probably during the period in question rights in the property of the society, similar to those of the barristers and students, but the management and administration of the property was vested solely in the benchers, to which body no solicitor was ever admitted (or even had access to their records), so that it was only towards the end of the period in question that the solicitors as a body became aware of their rights and began, with the increasing importance of their branch of the profession, to insist upon something being done for them and their apprentices.

That the society was under no legal liability to provide for the education of the solicitors' apprentices was admitted; that is, liability such as could have been enforced in a court of law or equity, even if a court could have been found in the country in which the judge would not have been both a party and the judge.

That the society was under the strongest moral duty, which they consistently neglected, to do something in return for the money received by them from the apprentices appears to me to admit of no reasonable doubt. I cannot agree with the view that the solicitors have now no moral claim to this fund. I prefer to accept the view taken by Dr. Battersby in 1870, when as treasurer of the King's Inns and also as counsel for the benchers he appeared before the Royal Commission of that year, and having quoted the words of the statute creating this endowment, he proceeded to say, "that shows a recognition by the Legislature of the position of the benchers as the governing body of the legal professions of this country, and accordingly it *entrusts* to them this money, to be *applied by them* at their discretion, for the benefit of the legal professions; and all these moneys, as we allege, have been applied for their benefit and to the best advantage."

It must be remembered that the question before the Commission of 1870 was the claim of the solicitor to get back from the society the moneys which they had paid under the head of "Deposits for Chambers," the answer to which, on the part of the benchers, was that those moneys, in common with the other moneys derived by the Inn from the solicitors, had, in fact, been expended for their benefit. Accordingly Dr. Battersby having laid down the principle that these stamp duties were *entrusted* by the Legislature to the benchers to be applied by them for the benefit of the legal professions, goes on to show how they had, in fact, discharged their duty, and to defend them from the charge of having applied them more for the benefit of the barristers than of the solicitors. (See Appendix A.)

I think the history of the Inn strongly confirms Dr. Battersby's view, and shows that among the benefits which the Crown and the Legislature had in view, in the successive endowments, the education of young men always held a place.

I find that a similar view was taken by Mr. Acheson Lyle, the Chief Remembrancer of the Court of Exchequer in Ireland, himself a bencher, who gave evidence for himself and his colleagues before the Select Committee on Legal Education of 1846, who admits that, in his belief, the original intention of the State was to apply these institutions for the purposes of education. (See Appendix A A.)

The origin and foundation of the Inn is clearly shown by the three letters taken from the Public Records, Vols. II. and III. (See Appendix B.)

It seems clear that the Inn was founded by the judges about the year 1542, in the reign of Henry VIII., and when applying to that monarch for a grant of lands belonging to one of the dissolved monasteries, they put forward, as a ground for asking for the endowment, that it would tend to the bringing up of

young gentlemen in the English tongue, habit, and good manners, and he a means whereby students who had been at study in England should have the better in remembrance their learning. Upon these, amongst other grounds, the endowment appears to have been granted by the King, and though it is quite true there are no trusts expressed in the Charter of Endowment, it was probably thought that a body consisting of all the judges and king's counsel of the land, might be trusted to do their duty without express trusts, which even, if they had existed, might be difficult to enforce against a body which itself contained every member of the sole tribunal, which, in those days, and for long after, had exclusive cognisance of trusts. I do not suppose that the education of solicitors' apprentices, in the least, entered into the views of the judges who were applying for the endowment. It was not until long afterwards, viz., at the restoration of the Inn by Lord Fitzgibbon, afterwards Earl of Clare, that the idea of affording to the apprentices any other education than such as they derived from their masters, appears to have made its way into the mind of the benchers.

During the 18th century the Inn fell into complete decay. The recitals in the Statute of 1751 (see Appendix C.) show that the buildings had become dilapidated and uninhabitable. At the time when Lord Fitzgibbon undertook the reform of the legal profession the hall was a ruin, the plate had disappeared, Lord Lifford had been in receipt of the income of the inn for 25 years without accounting for it (some of which was with difficulty recovered from his executors), and there is no trace or pretence of education of any sort having for a period of at least 50 years been provided by the inn for any body.

It was in this state of things that Lord Fitzgibbon undertook the reform of the profession and the restoration of the inn. He was appointed Chancellor in 1789, and had previously been Attorney General. The imposition of the new stamp duties upon the students, barristers, and apprentices dates from this period. There is a strong probability that the new endowment, as well as the new Charter, was procured by his influence. The restoration or "re-integration" of the inn by Lord Fitzgibbon is commemorated to this day by a Latin inscription upon every plate used by the society in their hall. When we examine the new Charter, we see educational purposes again occupying a prominent position. After reciting that the inn had formerly made rules for all persons "studying, professing, and practising the science of law in all or any of the branches thereof," the decay of their buildings, and the consequent neglect of "the study" and "practice of the profession of the law," it empowers the benchers (amongst other things) "to make rules and orders for the admission of persons to learn the business and practice of attorneys" (i.e., obviously apprentices), "and for their admission into the said society as members thereof, and to make rules and orders for the better government of the said society and every member thereof, and the further advancement of knowledge in the science and practice of the law."

I beg to report that, in my opinion, the fact of the new endowment being contemporaneous with the new Charter raises the strongest presumption that the taxation in favour of the inn then, for the first time, imposed upon the students and apprentices, was intended to be applied in some way or other for their benefit. This is in substance the view, as I have already pointed out, which was taken by the benchers themselves, through their treasurer, Dr. Battersby, in 1870, when under circumstances which I shall presently state, there was then no question of taking this income away from the inn, but they were defending themselves against a charge of having misapplied it, in common with other funds, in the past.

I also find the idea of a moral trust recognised by the benchers themselves in the preamble to the Rules of 1793, which were made after the revocation of the Charter and the repeal of the statute. They say, "We, the benchers of the said society, having full power and authority to make and ordain rules and orders for and concerning the business and practice of attorneys, and for their admission into the said society as members thereof; * * * * * and being convinced of the importance of the trust committed to us, and that the safety and enjoyment of the persons, property, and character of the inhabitants of this kingdom, greatly depend upon the knowledge and integrity of those who are permitted to profess and practise the science and business of the law, and conscious that, as the grant of that permission is entrusted to us, the
reproach

reproach and crime will both be ours if at any time we shall admit into this society * * * any improper or incapable person, or finding him grossly such, shall suffer him to continue therein, therefore that the means of information and improvement may be provided and held forth to all; and that the public may not be deceived by the sanction of this society's name lavished upon the undeserving."

They then proceed to make rules for the government of the society, of which Nos. 5, 6 and 7, relating to attorneys, will be found in Appendix A A A.

Again, in 1795 I find from a minute in the Green Book of the benchers, that in applying to the dean and canons of Christ Church for a renewal of a lease which had dropped, they again put forward the education of young persons for the law as a principal ground to induce those ecclesiastics to grant them this favour, thus showing that the idea of a moral trust still occupied a place in their minds.

The objects which were in view when the endowment was granted, having to a large extent failed by the repeal of the charter, the question of education, both as regards the bar and as regards the solicitors, appears to have fallen into oblivion for half a century or more, and the endowment was applied to other objects to the exclusion of education. This state of things continued until about the year 1850, when the Inn first took some steps towards the education of the bar students in consequence of the agitation of the bar, and, at a later period, towards the education of the apprentices in consequence of a similar agitation on the part of the solicitors. I find that in the Report of the Standing Committee of the Benchers, dated February 21st, 1859, on the petition to Parliament, which had then lately been presented by the Incorporated Law Society, the committee say, in defending the benchers from the charge of having done nothing for the education of the attorneys, as follows:—

"Fifthly.—That the benchers have on several occasions invited the co-operation of those who profess to represent the body of attorneys and solicitors in the framing of rules for the more efficient supervision and education of apprentices; but that they had not only declined to do so, but even disclaimed the authority of the benchers altogether." And again (p. 39), after referring to and quoting "the Report" presented to the benchers on the 12th April 1856, by the Education Committee appointed to consider a memorial of the attorneys and solicitors of Ireland relating to the education of apprentices, they proceed in the following terms:—"We have only to add, from ourselves, that we should be most ready and willing to co-operate with the leading members of the body of attorneys and solicitors in the consideration of any plan which they might suggest for the better education of apprentices, and for elevating the profession of attorney, by the establishment of more stringent tests for admission and of lectures on matters more especially connected with their profession or any other means calculated to guard against the admission of improper or uneducated persons, if the attorneys would themselves assist in this most useful object. It does not appear to us to require any new legislative powers to attain this end." The result of the agitation referred to in the above report was that in the next year (1860) the benchers at last found themselves constrained to do something for the education of solicitors, and they did in fact in that year (1860) appoint a professor and an examiner for the apprentices, besides providing a lecture room and other conveniences, and making attendance on the lectures compulsory. At the same time, by the rules of May 1860, they imposed a literary examination upon each apprentice before being bound, instead of the former practice, under the rule of 1802, by which the apprentice merely stated in an affidavit what Latin authors he had read. This tardy recognition of their duties towards the attorneys continued down to the year 1866, when the total separation of the professions was effected by the statute of that year.

It is now said by the benchers (in the memo. of 16th April 1890), "The claims of the solicitors, after the Act of 1866 had separated their profession from the Society of the King's Inns, were, in 1871, made the subject of inquiry by a Royal Commission; but no such claim as the present was then made;" and again in the memo. of 16th April, 1891. (In answer to the contention of the solicitors, that whether the endowment was in lieu of rent or not, it was granted to the benchers as the representatives of both branches of the profession, and that as they no longer represented the solicitors, the latter should

no longer contribute to their funds), they say in emphatic language, "The benchers desire to point out again that the claims of the solicitors upon the benchers were disposed of by the Royal Commission of 1871."

In my opinion neither of these statements will bear examination. The inquiry of 1871 was limited to the claim of the solicitors to get back from the benchers the moneys which under the head of "Deposits for Chambers" they had been paying from 1794 to 1866. No such claim as the present was within the scope of that Commission or could have been entertained by it. The subject was introduced, not by the counsel for the solicitors, but by the counsel for the benchers, who, after stating (p. 13) that no separate account was kept of the deposits for chambers, but that they were always treated as part of the ordinary income of the society, go on to show, in the manner already mentioned, that the income had been in fact applied for the benefit of both branches of the profession.

With respect to the suggestion that this is a stale claim, not put forward in 1866, and now made for the first time, 30 years after the separation, I beg to report as follows:—The benchers had in their custody the sole documentary evidence (other than the Acts of Parliament) relating to the origin of the endowment. These were guarded with scrupulous jealousy. It does not appear that any solicitor or any body acting on behalf of the solicitors ever had access to any of these documents; so late as 9th June 1890, the under treasurer wrote by direction of the benchers to the Secretary of the Incorporated Society declining to allow them to see the report of the Committee of 1808 dealing with this very subject; and it was stated, during the arguments, by one of the leading counsel for the Incorporated Society, himself a member of the Inn, that he had, immediately prior to the inquiry and with a view to it, asked permission of the under treasurer to see the historical documents in his possession bearing upon the question in dispute, and had been refused. Until at the end of the first day of the inquiry, permission was obtained, through my colleague Mr. Justice Holmes, to inspect the report of 1808 and the Black Book and the Green Book, it does not appear that any one of these records had ever fallen under the eye of any person interested in raising the question for the solicitors. Such being the state of the case as to the sources of information, when the question was raised in 1859, it was met by an authoritative statement put forth by the benchers, apparently founded on documents in their possession, in the following terms:—

"The Government having about the year 1776 taken possession of the ground belonging to this society on which the Four Courts have since been erected, proceeded to build thereon, without making any agreement for the payment of the rent for the same, or for the absolute purchase thereof, and this society was forced in 1796, in vindication of its rights, to take proceedings by ejectment for the recovery of the ground, in consequence of which an arrangement was made with the Government, which was carried into effect by the statute of 37 Geo. III. chap. 12, the effect of which was that in lieu of rent for this ground a certain portion of the stamp duties payable to the revenue by attorneys' apprentices and barristers, should be annually set apart and paid to the society, which has since been done, and it appears in the accounts of the society under the head of "Appropriated duties received by the society from the Government in lieu of rent. It is obvious, therefore, that the attorneys do not pay to the society, nor does it receive from them one farthing of this money. In fact, they pay their entire stamp duty to the State, and the Government pays thereout a proportionate sum as rent to the society." This account of the origin of the duties was reiterated in 1890 (in the memo. of April 16th) in still stronger terms, with the additional suggestion that the question was then raised by the solicitors only because it was then known that the older members of both branches of the profession with good memories who remembered the transactions in question were then no more. (See Appendix D). It is now conceded that this account of the origin of the endowment cannot be sustained. The documents themselves in the possession of the benchers when examined demonstrate the contrary. For years after the imposition of this taxation upon the solicitors in favour of the Inn, the benchers were, as their books show, claiming compensation and issuing ejectments for the site in respect of which it is alleged to have been granted. This view of mine is strongly supported by the considered report of both my colleagues, that the statement so long put forward

forward by the benchers cannot be sustained. In 1859, when the question was raised by the solicitors, and they petitioned Parliament on the subject, their claim was met by this statement which they had no means of testing or verifying and which they accepted on the faith of the distinguished men, who were led, it does not now appear how, to put their names to the report in question. Under these circumstances I beg to report that in my opinion there is no reason either in the legislation of 1866, which proceeded on the basis of the statement then made and accepted, or in the fact of the inquiry of 1871, which was limited to a special subject, or in the lapse of time which has taken place since 1866, (seeing that the statement on which the legislation of that year proceeded, have been reiterated and persisted in up to the last moment by those who had the best means of knowing the contrary) to preclude the solicitors from now raising the question or to debar them from having their rights conceded in the only way now open, viz., by legislation.

4 On the 4th head of the inquiry I beg to report as follows :—I cannot concur with the view of my colleagues, that the solicitors of Ireland when they separated from the Inn, or the Incorporated Society as representing them, had no right or title to carry off any share of endowment with them, or that they accepted that view and attack on'y this particular item. As a matter of fact on the separation they did obtain for their exclusive use (under a lease for 999 years at a nominal rent) a considerable share of the property of the society, viz., the buildings now known as the solicitors' buildings, which comprise the solicitors' council room, the secretary's offices, the library, the arbitration rooms, the lecture rooms, and other rooms now used exclusively by the solicitors.

It may be that they had no right in the technical legal sense of the term, but in my opinion, and I beg so to report, they had a strong moral claim to this particular fund. I have already reported that in my opinion this endowment and the corresponding endowment raised by taxation of barristers were originally entrusted to the benchers to be applied by them, not capriciously, nor for the benefit of one class to the exclusion of the other, but for the benefit of both branches of the legal profession in common. It must be remembered that the solicitors are not seeking to get back any of the funds levied off them prior to the separation in 1866, nor again any of the funds levied off them from 1866 to 1891 (though under the circumstances in which their claim was met by the benchers in the discussions which preceded the Act of that year they might have strong grounds for doing so) but are merely seeking to be relieved of a burden for all time to come, in return for which they admittedly are to get not one farthing of benefit. Whatever the origin of this burden, it is not now pretended that its original imposition had any connection with property previously belonging to the Inn and then expropriated, or that it was imposed upon the solicitors without any view of corresponding advantages to be reaped by them. I beg to report that in my humble opinion when the solicitors of Ireland ceased to be members of the King's Inns, which they had never been except upon compulsion (the best proof of which is that not a single solicitor has joined the Inn since 1866), they had the strongest moral claim to take with them an endowment consisting of a tax levied only on themselves, for which, in the hands of the Inn, it is not now pretended they are over for all time to come to receive the smallest return.

No evidence was adduced before us by the benchers as to the application of this fund, or as to whether it was spent by them upon useful or proper objects or otherwise. It is generally supposed to form one of the main sources of the very considerable accumulations which are known (from the Commission of 1871 and otherwise) to be in the hands of the benchers. Owing to the absence of any such evidence, I find myself unable to concur in so much of the report of my colleagues as reports that "this revenue, amounting at the present time to about 1,000 £ a year, has not been, and is not spent otherwise than on useful and proper objects." Neither was there any evidence adduced before us as to whether the withdrawal of this fund from the benchers would, or would not, cripple the resources of the King's Inns; and even if its withdrawal were to have that effect, I, for one, fail to see that any such consideration enters into the scope of our inquiry, or affords any good ground for the perpetual diversion of the fund from the purposes to which in origin and in fairness it belongs, or any valid argument against its restoration to that class which exclusively contributes it.

With regard to the last portion of my colleagues' report, in which they express their views in favour of a concurrent endowment of the Incorporated Law Society as a means of solving the question between the two bodies, I beg to express my opinion, that if this solution should receive the sanction of the Legislature it would be acceptable to the Incorporated Law Society as representing the solicitors' profession in Ireland.

(signed) *Wm. Finlateral,*
1st February 1892.

Appendix A.

EXTRACTS from Dr. *Battersby's* Statement on behalf of the Benchers before the Royal Commission of 1870, Minutes of Evidence, pages 42 and 43.

"The words are: 'To the Treasurer of the Society; the stamp duty payable by barristers and attorneys on their admission to be applied by him in such manner as shall be directed by the said society. That shows a recognition by the Legislature of the position of the benchers as the governing body of the legal professions of this country; and accordingly it entrusts to them this money to be applied by them at their discretion for the benefit of the legal professions, and all these moneys, as we allege, have been applied for their benefit and to the best advantage. Another public statute, the 38 Geo. III., c. 49, takes possession for the Government of that part of the premises of the King's Inns which I have already stated to you, and the Government having built on it, by the same Act they enable the Benchers to purchase land which they did for the purposes of the King's Inns.

"Then carry your recollection, if you please, from the first of the purchases made to the present time, and you shall find that in every act done by the Benchers they conducted themselves for the entire benefit of all the professions. That building of the King's Inns is used, and has been from the beginning used, by the solicitors, as much as by the benchers and the barristers. They dined in the hall, and used it in common with the other profession. In that building there are provided for the solicitors a retiring room and also a lecture room for their apprentices, and the benchers and barristers have no more. They go into the common hall. They also have those rooms for the purposes of lecturing and retiring, and that exhausts the whole of the building. Well, when the benchers erected this building at the cost that you have heard, did the benchers do anything to the prejudice of the attorneys? On the contrary, your Lordship has the application of the attorneys for this particular apartment. You have the acknowledgment in writing of the most respectable members of that profession, on getting possession of these chambers for which they asked. You have that writing preserved among the records of the benchers not asking for anything more. There is no doubt, and can be no doubt, that if they required more and asked for more the benchers would have been very glad at that time, or at any other time, to give it."

"Then comes the library. Can anything be more unreasonable than to say that the building of the Library was a misapplication of the money that was laid out upon it? That library is one of the best in the Kingdom. They got for it for many years, as long as the law allowed them to do so, copies of everything that was published. It is kept in the best possible manner. All the attorneys are free to go there, and their apprentices are allowed to go there as much as they please, provided their masters certify for them that they are proper persons to go."

Appendix A A.

EXTRACT from the Evidence of *Acheson Lyle, Esq.*, Chief Remembrancer of the Court of Exchequer and a Benchman of the Kings Inns, before the Select Committee on Legal Education of 1846, p. 175.

Has any portion of the money been applied to the augmenting, extending or improving the education of the students?—I know of no sum having been applied at any time by the society for the promotion of education, except a sum a few years ago given to the Law Institute, amounting to 400 £. Q. 2296.

Have you any lectureships or professorships connected with the institution?—No. Nor can I find that there ever were. Q. 2297.

Are there any trusts?—None that I can find. Q. 2298.

Are there not certain indications in Acts of Parliament and other documents of an intention on the part of the Legislature and of the State of applying those institutions for the purposes of education?—I think that was their original intention, and I find at present that the memorial of a person to be admitted as an attorney must state that he has a certain knowledge of the Latin language, and that he has read certain books which are specified in his memorial, that is to say, he must specify in his memorial certain Latin and Greek authors which he has read, but it is not prescribed what they are to be. The applicant is obliged to state that he has been so many years in some particular school, and that he has read certain Greek and Latin authors named. Q. 2299.

Appendix A A A.

Setting forth certain of BENCHERS RULES of 1793 relating to ATTORNEYS.—
See Dubigg, pp. 584 to 586.

V. That no person shall be admitted a member of this society in order to his becoming an attorney who has not served 20 whole terms as an apprentice to an attorney, a member of this society.

VI. That from and after the said day no attorney shall take any person to be an apprentice who is not of the full age of sixteen years; the same to be verified by affidavit, before a Judge, or Master in Chancery, nor without an order of the Bench made upon a petition, stating the number of apprentices the attorney intending to take such apprentice, then already has; his place of abode, and whether he attends the Courts in Dublin or not; the occupation, and place of abode of the parents of such intending apprentice; his age, and the course of education he has before passed through. Such petition to be lodged in the Treasurer's office, before the Essoin day of the term; to be by the treasurer, or his deputy, read to the Benchers and afterwards filed, and carefully kept.

VII. That before any attorney's clerk or apprentice shall be admitted into this society, in order to his being sworn an attorney he shall be examined publicly in the dining hall of the Society, in the presence of the Benchers and the Society, then there assembled by the same officers who now examine such persons, and by any other member of the Society there present, who may think fit so to do.

Appendix B.

STATE PAPERS, Vol. II., page 571.

Patrick Barnwall (Kings Sergeant and afterwards Master of the Rolls), who writes to Cromwell (A.D. 1538):—

"Yf your Lordechepe thought hyt mette that there should be a house of Chauncery here, where such as were towards the lawe and other yonge gentlemen, might be togedyr, I recken hyt wold doo moche good, as I have declared ere now, unto your Lordechepe; and in especyall for the increasse of Inglish tonge habite, and ordyr, and aliesoo to be the mene as suche as hath, ore shall be,

at stedy in England, should have the bettyr in remembrans ther larnyng. For default wherof now in effect, wee doo forgyte moche of that lytyll larnyng that we attayed there."

"The Judges and Law Officers of Ireland," who write to the Privy Council in England as follows:—(A.D. 1541) (State Papers, Vol. III., page 321):—

"Our humble duties remembered to your most discret wisdoms—Please it the same to be advertised, that whereas we, our Sovereaine Lord the Kinges Majesties, Judges and lerned Counsaill of this Realme of Ireland, and others lerned in his Highness lawes, and such as hath presedit us in our rombis, before this tyme hathe been severed in terme tyme in severall merchauntes howsis within the citie of Dublin at borde and lodging; so that whensoever any thing was to be done by the said Judgis and Counsaill, and others lerned, for the setting forth of our said Sovereaine Lordes causes, and othir to our charges commytted, tyme was lost, or we couede assemble ourselves together to consult upon every such thing, therefor we, pryncypaly considering our humble and boundyn duties unto our said Sovereaine Lord, the comenwelthe of this realme and also the bringing up of gentelmen's sonnes within this realme in the English tong, habit and maners, thought it mete to be in our house together at bord and lodging in terme tyme, for the causes aforesaid, and for the same intent and purpose we toke the late suppressed house of Blak Friars in the South Barbis of the said citie, and kept commens ther, the last two yeris termely. And considering our said trewe and faithfull unfained purpose, in our judgements and understanding to be hothe to the honor and profit of our said Sovereaine Lord, the comenwelthe of this realme, and theneres of vertue, we moost humble beseeche your discret wisdoms to be so good unto us, as to be a meane unto our said Sovereain Lord that we may have the said house, and the Landes therunto belonging, which is surveyed at the yearly valor of alevyn markes sterling or thereabout, whiche is not able to maintaine the continuall reparacions thereof, alter suche like sorte and facion as shall please his Majestie to depart with all unto us, and to name the said house as the same shall be thought good by His Majestie, for we doe call the same now the Kinges Inn—and for the furder declaration of our myndes, in this behalfe, it may please your discret wisdoms to give credens to Master Dowdall, herrer hereof, who can relate the same at large. And thus we comyt your discret wisdoms to the tuicion of God with continuall encreas of honor.—Pro' the Kinges citie of Dublin, 29 of August, A.D. 1541, Your Orators.

Gerald Aylmer, Justice.
Thomas Luttrell, Justice.
James Bathe, Baron.
Thomas Henth, Justice.

Patrick Barnewall, K's Serjeant.
Walter Kerdiff, Justice.
Patryke Whyte, Baron.
Robert Dyllon, K's attorney.

"To the Kinges most Honorable Counsaill in England."

LETTER written by the Privy Council in Ireland to the Privy Council in England (May 1542).—(State Papers, Vol. III., p. 374.)

"After our due and humble recommendations unto your Right Honorable good Lordeshippes. May it please the same to be advertised that when the Kinges Majesties Judges of His Grace's foure pryncipall Courtes within this his realme with bollyceers of the same, and others lerned in His Highness lawes, before this alway in terme tyme, till nowe of late, wer so sperlid or severed from other, not two in one house, at bourde and lodging as for the more parte, at many seasons moch tyme was loste, or they could assemble themselves together after ther sytyng in his said Courtes in terme tyme, to consulte as well upon His Majesties causes and matters depending in the lawe, as other diverse and sondry the causes and matters of His Grace's poore subjects, to the hynderance partly of the same, and the great disquet of his said Judges Officers, and others pleading or attending before them; whiche discommodite being perceyved at the dissolution of the Black Fryers of His Grace's cytie of Dublin, they made supplicacion and suete to have ther late houses and possessions within the same cytie in ferme to thintent they might ther contynue together

together both at boude and lodging, lyke as His Majesties Judges and Serjauntes of his Realme of England termly usith to doo; and this ther petition being thought reasonable, and moche for the commes weale of this his Realme, the same house and possesyons was by His Highnes's Commys-sioners appoynted in this behalf, dimised and lett unto them for 21 yeares, paying the rente according to the survey of the same; in which place they have sithens termly, holly continued togethers with bringing uppe of gentlemen's sonnes, attending upon them bothe in the Englishe habite, tong, and good manors; harying also for that purpose, to thier greate charge dis-bursed divers sommes of money for the mayntenance, keping uppe and transelecting of the saide house for the purpose aforesaide; which thing in our Judgements (yf yt may be contynued) wilbe as moche for the comen weal of this his Grace's Realme and introduction of cyvile order in the same, as any one thing, forsomoeche that was sett fearthe therein of a long season; and for- because we suppose that the sayde house, being sore in decaye, cannot be by them mayntayned without his gracions ayde, having consideration and respect to ther good purpose and intent we most humble be-eeche your Ryght Honourabull good Lordshippes to be intercessors to His Majestye, that His Highnes, the rather at your Lordshippes humble petitions, may be so good and gracions Lorde, as to grant unto them and ther successors the sayde house, witt the houses and tenementes onely within the sayde cytie to the same belonging bryng not above the vcery value of Fyve Poundes Sterling, and to incorporate and inhale them witt succession, by such name as shall please his Highnes, wherein (in our symple Judgements His Majesties pleasure standing with the same) His Highnes should doo a gracions dede bothe for the further- ance of His Grace's owne cawis and all his subjectes of this his Realme, as knoweth the Lorde, who sende Your good Lordshippes long delite with prosperous succeesse in all your proceedings. From the Kinges cytie of Dublin, the sexte day of May, the 34th year of His Majesties moste victorious reigne."

Appendix C.

EXTRACT from the Recitals in the Private Act of 1871.

"And whereas the premises so granted ever since the passing the said letters patent have been and for many years before by virtue of former grants from the Crown were held used and enjoyed by the society commonly called the Society of the Kings Inns Dublin and several houses edifices and buildings have formerly been erected upon part of the said premises for a common dining hall for the said society and for the Judges and other Benchers of the said society to meet and assemble in upon special occasions and also for lodging and other accommodations of the Judges and Benchers for the time being and part of the said premises is now set to tenants at certain yearly rents And Whereas the said houses and buildings are in a very ruinous and decayed condition and in great danger of falling and the rent of such parts of the premises as are now in lease are not sufficient to rebuild or repair the same in so much that the Judges Benchers and the other members of the said society are now destitute of a proper place to meet in And Whereas it is conceived that if the said premises or part thereof could be sold at the real value a competent sum of money might thereby be raised for the erecting proper and convenient houses and buildings either on some part of the said premises or in some other convenient place in the County or City of Dublin for the purposes aforesaid."

Appendix D.

EXTRACT from the Benchers' Memo. of 16 April 1890.—(Memo. of the Solrs., p. 29.)

The next document throwing any material light on the matter is a Report of the Standing Committee of the Benchers, dated the 21st February 1859. A petition of the then Incorporated Society of Attorneys and Solicitors had been presented to the House of Commons, setting forth certain alleged grievances,

one of which was the payment of the sum in question; and the Standing Committee were directed to consider and report on the statements therein. There were then several Benchers who had begun their professional lives before the end of the last or early in the present century, and who must have been conversant with a matter which at that period affected the interests and engaged the attention of the profession. For instance, Baron Pennefather had been called to the Bar in 1795; Chief Justice Lefroy and Sir Henry Meredith in 1797: Sir Thomas Staples had been a member of the Irish Parliament; and Lord Justice Blackburne became a Barrister in 1805. In the Report, which was signed amongst others by Lord Justice Blackburne and Sir Thomas Staples, it is stated that the payment of the sum in question was made pursuant to an arrangement "the effect of which was that in lieu of rent for the ground taken possession of by the Crown, a certain portion of the Stamp Duties payable to the revenue by attorneys' apprentices and barristers should be annually set apart and paid to the Society."

The report having been adopted, was printed and circulated. It became known to the general body of solicitors, who, like the benchers, had in their ranks old men with good memories; and although several of its conclusions were vigorously contested, the portion of it dealing with the appropriated duties has now, after an interval of thirty years, been for the first time called in question. The claims of the solicitors, after the Act of 1866 had separated their profession from the Society of King's Inns, were in 1871 made the subject of inquiry by a Royal Commission; but no such claim as the present was then made.

It is therefore clear that these appropriated duties have been given and accepted in lieu of rent for property of the Society taken possession of for the public service, and for which no other compensation has been received * * *

SOLICITORS' APPRENTICES (IRELAND)
(COMMISSIONER'S REPORT).

COPIES of the REPORT of the COMMISSIONERS appointed by the TREASURY to inquire into and Report upon the matter at issue between the IRISH BARRISTERS and the INCORPORATED LAW SOCIETY OF IRELAND regarding the allocation of part of the Stamp Duty on Indentures of Solicitors' Apprentices in Ireland.

(Mr. Seaton.)

Ordered, by The House of Commons, to be Printed,
24 May 1892.

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